

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

-----X
AKIL AL-JUNDI, on behalf of himself and :
all others similarly situated, :
:

Plaintiffs, :

v. :

VINCENT MANCUSI, et. al., :

Defendants, :
-----X

AFFIDAVIT REQUESTING THIS COURT'S
INTERVENTION IN ENFORCEMENT
OF MONEY JUDGMENT INVOLVING
ATTICA SETTLEMENT AWARD MONEY.

75-CV-132

STATE OF NEW YORK)
COUNTY OF SULLIVAN) SS:.

TO: HONORABLE MICHAEL A. TELESKA
UNITED STATES DISTRICT JUDGE
WESTERN DISTRICT OF NEW YORK

CLASS ACTION MEMBER, JAMES WEBB
SULLIVAN CORRECTIONAL FACILITY

Re: JAMES WEBB v. MARY OVERTON,
Kings County Index No.#12845-04
Mark I. Partnow
Judge Assigned

HONORABLE JUDGE TELESKA,

JAMES WEBB, being duly sworn pursuant to 28 U.S.C. §1746, deposes and says:

I am the plaintiff in the above entitled action, and I am writing this affidavit with exhibits to You Honor respectfully requesting that Your Honor intervene on my behalf in the above named Judgment of JAMES WEBB v. MARY OVERTON, Kings County Index No.#12845-04. Because I am in extreme need of my Attica Settlement Award money which was awarded to me by Your Honor. I need my money to pay off my debts and creditors and to address my pressing legal problems, to purchase food and other personal necessities. I don't have anything else of material value.

In awarding us the settlement award money Your Honor stated, "A number of the plaintiffs testified that their sole source of income is provided by public assistance. Indeed, many are destitute. The awards the Court makes today are not intended to be a substitute for public assistance for day-to-

day costs of living but rather to supplement such assistance to enhance the lives of the plaintiffs. Indeed, the majority of the awards contemplated are of a modest sum and not large enough to be a substitute for other assistance received by the former inmate plaintiffs." As for myself, prior to receiving my Attica settlement claim award money I was completely indigent and destitute. I was being supported entirely by my inmate wage of \$4.63 a week and whatever I could beg and borrow from other inmates and friends. In fact, at the time that I received by Attica settlement claim award money in December of 2000, I was still paying off a \$150.00 dollars surcharge that was imposed on me December 23, 1997, by the sentencing court. I was indeed thankful for what I had received.

Thinking that I would be getting a reversal on my criminal convictions. I send \$8,500.00 dollars of my settlement award money of \$10,000.00 dollars to my Aunt, the above named defendant, MARY OVERTON, so that she could open a bank account under both our names and my money would be available for my use upon getting a reversal of my criminal convictions.

My Aunt, the defendant, MARY OVERTON violated my trust and used my money unlawfully to address her own worldly needs. She never opened the bank account under both of our names, rather she placed my money into her direct checking account. Upon learning that, I made every reasonable effort to get her to return my money back to me. She continuously refused to return my money. The defendant, MARY OVERTON placed a block against collect telephone calls so that I would be unable to reach her by way of collect telephone calls. She receive SSI and she own a brownstone apartment building, at 652 Lafayette Ave, Brooklyn, New York 11216. She rents apartments out to tenants on the 1st, 2nd and 3rd floors. She tried to hide behind a wall of silence. Thereafter, I filed a pro se civil action against her in the Sullivan County Supreme Court. On October 11, 2002, I won a default judgment against her for the return of \$7,103.38 with interest at the rate of 9% per annum, from December 18, 2000, together with costs and disbursement of the action. The default judgment was not filed by the Clerk of Sullivan County until January 8, 2003. Thereafter, I have continuously tried to get my Certified "TRANSCRIPT OF JUDGMENT" filed and executed in the County of Kings.

After winning my judgment against the defendant, MARY OVERTON, I served a "Restraining Notice" and a copy of the Certified "TRANSCRIPT OF JUDGMENT" on the DIME SAVING BANK OF NEW YORK, located at 9 Dekalb Ave, Brooklyn, New

York 11201, where the defendant, MARY OVERTON had her direct deposit account at the time that she received my money. I was informed by the Bank that there is no account under her name at this time. Apparently she closed her account at the DIME SAVING BANK OF NEW YORK after I filed my action.

I first send a Certified **"TRANSCRIPT OF JUDGMENT"**, dated, February 6, 2003, along with **"Notice of Entry"** and **"Executions"** to the Clerk of Kings County, to be Entered and/or Docketed and Executed in the County of Kings. It was returned to me with a note from the County Clerk Office, County of Kings, Supreme Court Building, 360 Adams Street - Room 189, Brooklyn, New York 11201, dated, 2-21-03. Stating that it was being returned to me because, **"There is a filing fee of \$25.00 you are not exempt."** **"Make out to Kings County Clerk money order or Bank check only."** from **"CY" "LAW DESK"**. I send the Certified **"TRANSCRIPT OF JUDGMENT"**, dated, February 6, 2003, **"Notice of Entry"** and **"Executions"** back to Clerk of Kings County Office together with the proper filing fee. It was returned to me once again, this time with the statement that there is also a \$5.00 fee for the Sheriff. After sending everything back out once again with the necessary fees I never received a receipt for my payment or even an acknowledgement of receiving my papers or money from the Clerk of Kings County Office concerning my Certified **"TRANSCRIPT OF JUDGMENT"**, dated, February 6, 2003, **"Notice of Entry"** and **"Executions"** or my money. I decided to get another Certified **"TRANSCRIPT OF JUDGMENT"**, this time I send everything to the Clerk of Kings County Office my way of Certified Mail, Return Receipt Requested, the Clerk of Kings County Office still would not file and enforce the execution of my **JUDGMENT**. I made many efforts to get my Certified **"TRANSCRIPT OF JUDGMENT"** filed and enforced. Finally I decided to file an Order To Show Cause - Article 78 - to docket Certified **"TRANSCRIPT OF JUDGMENT"** and Sale Of A Homestead Exceeding \$10,000 Dollars In Value, and a request for Poor Person Status For Inmate (CPLR §1101(f)). Those requests were granted. See ORDER - Inmate Reduced Filing Fee Application (CPLR 1101(f)), dated, April 26, 2004, attached hereto as Exhibit **"A"**; Copy of Certified **"TRANSCRIPT OF JUDGMENT"**, dated, May 8, 2003, attached hereto as Exhibit **"B"**; Copy of Order To Show Cause, attached hereto as Exhibit **"C"**; Copy of Affidavit Of Mailing and Copy of Certified Mail Receipt, attached hereto as Exhibit **"D"** and **"E"**; And copy of Affidavit Of Service, for Default Judgment with Executions, dated, July 2, 2004, attached hereto as Exhibit **"F"**.

I have made every reasonable effort to try to get my judgment against the defendant, MARY OVERTON enforced in the County of Kings. I have continuously written to the Kings County Supreme Court, concerning my default application and enforcement of my executions, even sending new executions my way **Certified Mail, Return Receipt Requested**. And I have received absolutely no response from the Judge or County Clerk. I respectfully request that Your Honor intervene on my behalf in the interest of justice, and request that this matter be finally resolved in my favor immediately. Because of the defendant, MARY OVERTON unlawful actions I have suffered and I continue to suffer unjustly from the inability to carry on my legal work and fight to regain my freedom in a timely, meaningful and just manner. I have further suffered and continue to suffer from the inability to purchase the things I need to address my own personal worldly needs, such as, purchase food, clothing, soap, toothpaste, deodorant and other necessities I need, by means of the inmate Commissary, packages from my friends, or from outside vendors, without being a financial burden on anyone. Because of the defendant, MARY OVERTON unlawful actions I am unable to communicate my means of collect telephone calls without being a financial burden on anyone. All I have of material value is the money involved in this action. The only person that has suffered and continue to suffer unjustly in this matter is me.

I am actual innocence of the criminal charges of which I now stand unlawfully convicted of, as proof of my actual innocence I am also enclosing 2 exculpatory DNA reports which were not submitted into evidence at my trial by my Legal Aid attorneys. I am also enclosing a "Preliminary Report" done by S.L. Zabell, Ph. D. who gave testimony at my criminal trial. I am in extreme need of my money so that I can get in contact with him. Because my trial judge did not allow him to testify concerning 6 (e) of his preliminary report. Which applied to the DNA "SUPPLEMENTAL CERTIFICATE OF ANALYSIS", dated, July 5, 1996. Which he never got the opportunity to review. Because it was turned over long after he had testified. Additionally his trial testimony has been altered. I need my money so that I will be able to do the best that I can do to help myself win my freedom. I will be forever thankful for any assistance Your Honor give me because I am in extreme need of my money.

WHEREFORE, I respectfully request that Your Honor intervene in this matter on my behalf. Perhaps all it will really take is a phone call from Your Honor to Hon. Mark I. Partnow, Justice of the Supreme Court Kings County whose

Chamber phone number is (718) 643-8183 and/or the Clerk of Kings County Office. And for what other and further relief as Your Honor deem just and proper. I am thanking Your Honor in advance for Your Honor time and consideration in this matter. And I hope to hear from Your Honor as soon as possible.

Due to the unavailability of Notary Public, as per 28 U.S.C. §1746, I declare of the penalty of perjury that the above is true and correct

James Webb, dated, May 17, 2005.

RESPECTFULLY SUBMITTED

PRO SE

James Webb

James Webb

#98-A-0263

SULLIVAN CORRECTIONAL FACILITY

P.O. Box 116

Fallsburg, New York 12733-0116